

PUBLIC HEARING

FEBRUARY 11, 2015

A public hearing of the Council of the County of Kaua'i was called to order by Gary L. Hooser, Chair of the Public Safety Committee, on Wednesday, February 11, 2015, at 2:05 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Mason K. Chock  
Honorable Gary L. Hooser  
Honorable Ross Kagawa  
Honorable Arryl Kaneshiro  
Honorable KipuKai Kuali'i  
Honorable JoAnn A. Yukimura  
Honorable Mel Rapozo

The Clerk read the notice of the public hearing on the following:

"Bill No. 2573 – A BILL FOR AN ORDINANCE TO ESTABLISH A NEW ARTICLE UNDER CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DECLARING A PUBLIC NUISANCE,"

which was passed on first reading and ordered to print by the Council of the County of Kaua'i on January 14, 2015, and published in The Garden Island newspaper on January 20, 2015.

The following communications were received for the record:

1. Brun, Chris, dated January 15, 2015
2. Carvalho, Doreen and Clay, dated January 16, 2015
3. Clark, Robin, dated February 9, 2015
4. Contractors Association of Kaua'i, dated February 6, 2015
5. Dittler, Barry, dated January 17, 2015
6. Freitas, Jolene, dated January 15, 2015
7. Haupt, Jeremy, dated January 21, 2015
8. Kaser, Glenn, dated January 15, 2015
9. Keala@greatvacationretreasts.com, dated January 15, 2015
10. Kelly, Alfred & Marilyn, dated January 29, 2015
11. Lanning, Brianne, dated January 18, 2015
12. MacDonald, Carol, dated January 27, 2015
13. McCoy, Keira, dated February 4, 2015
14. Nadeau, Isabella Sabelli, dated January 26, 2015
15. Okamoto, Charles, dated February 10, 2015
16. Ranis, Laureen, dated January 15, 2015
17. Raymond, Jarom & Lysowski, Molly, dated February 9, 2015
18. Rutledge, Robert, dated January 16, 2015
19. Shigemoto, Tom, dated January 27, 2015
20. Takasaki, Francis, dated February 10, 2015
21. Tanioka, Irene, dated January 15, 2015

The hearing proceeded as follows:

SCOTT K. SATO, Council Services Review Officer: We received twenty-one (21) written testimony, three (3) in support, fourteen (14) opposed, and four (4) providing comment, and we have twenty-one (21) registered speakers. The first registered speaker is Dorothea Hayashi, followed by Gary Pierce.

Committee Chair Hooser: If Ms. Hayashi can come forward. Before she speaks, I just wanted to have a few words and welcome everybody here. I think it is really good when people show up and get involved in the process. I commend all of you regardless of your position for being here today. It is obviously an important issue. There have been some new information that came out so I wanted to share that with you before you testified in case it might affect your testimony. First of all, I think it is important to talk a little bit about the process so people understand how the process is. I introduced this Bill and I would do the same for anyone in the community who has a reoccurring problem and needed help with. That is what Councilmembers do. That is what I do. There are people in the community who for years, have been bothered by this issue and their health has been impacted. Over the years, I mean literal years, we have looked at solutions and working with staff, working with the County Attorney, we looked all over the nation, we looked everywhere to see other models, what other communities who might have similar issues. We found a law on Maui actually, that has been in place since 1949. We thought, well, let us use that. It is a Hawai'i law, it is a Hawai'i community, and let us use that as a starting point for the discussion. So, the Bill started on Bills for First Reading. You acknowledged that there is an issue and you put it on the table. We cannot meet as a Council to discuss these issues unless we have something on the table to have a public forum. That is the Sunshine Law. First reading, it goes on the table, then you have a public hearing, and that is what we are doing today. The public hearing is a way to get public input. I thank all of you for submitting your public input in writing and we have learned a couple of things from that input. We have learned that this is not an isolated situation. Other people around the community also have similar issues. It is not just a handful of families in Wailua Homesteads. There are other people. We have also learned that people are very concerned about losing their traditional and cultural rights. I acknowledge that and for what it is worth, I have been living here, and I raised my family here. I would never ever pass a bill that does that, for what it is worth. You can believe me or not believe me. No one here on that Council for that matter, would do it.

Looking at the Maui model, there was some misinformation. It was misstated that the Maui model was unenforceable, it could not be enforced. I have been in contact with the Maui Police Department and that is not true. The Maui Police Department have been enforcing it. For the past two (2) years, there has been no home barbeque, no *hibachi*, no *imu*, and no smoke meat has been affected whatsoever. Having said that, I know that is not good enough for a lot of people. This is not Maui. This is Kaua'i. You want assurances. I have drafted an amendment, a proposed amendment, that I am going to present to the Committee on the next hearing which will ensure that no outdoor cooking, those practices will not be impacted whatsoever. I am confident as Chair of the Committee that the amendment at the minimum, will pass. It will also be restricted just to residential areas and R4. That is my commitment to you. Just to assure you there has never been any intent to impact traditional and cultural cooking practices. That is not what I am about. That is not what this Council is about. It goes through the process, it may pass or it may not pass, but I can assure you nothing will pass out of

this Council that is going to have those kinds of impacts. It is a complicated issue. Some people have said, "Just legislate certain kinds of smoke." Well, it is more difficult than that, but we do have some ideas, it is a problem, we are trying to deal with it, and we appreciate your *kōkua* in helping this public hearing process to go through smoothly. I ask that we respect each other's intent, that you respect me and the Council's. The intent is to do the right thing, it is to help the community, and I will respect your intent which is to protect your traditional and cultural cooking practices. With that, could you call the first speaker again, please?

Mr. Sato: First speaker is Dorothea Hayashi, followed by Gary Pierce.

Council Chair Rapozo: How many of you are here that are going to testify that did not sign in? Can we get that out of the way real quick just so that we can move this? Let us just take a few minutes, Mr. Hooser, if you do not mind, and get everybody signed up so we know exactly where we are at.

Committee Chair Hooser: Sure. Do you want take a few minute recess then?

Council Chair Rapozo: Yes, please.

Committee Chair Hooser: We will take five (5) minutes. I apologize, Dorothea. We are going to take a five (5) minute recess and let everybody sign up.

Council Chair Rapozo: I know a lot of people walked in and went right pass the sign in. I just want to make sure we get a better understanding of how many people are going to testify.

Committee Chair Hooser: There are seats available if anyone who chooses them. I will go ahead and call a recess.

There being no objections, the meeting recessed at 2:11 p.m.

The meeting reconvened at 2:17 p.m., and proceeded as follows:

*(Councilmember Kagawa and Councilmember Kaneshiro were noted as not present.)*

Committee Chair Hooser: If I can get everybody's attention. There are a lot of people in the room today. There are still some seats over here if anybody wants seats. If not, we will go to the first speaker. If you could introduce yourself for the record please. Everyone has three (3) minutes.

TINA SAKAMOTO: My name is Tina Sakamoto, however, I am providing testimony for Dorothea Hayashi. She was here this morning and was asked to come back at 1:30 p.m. and she stayed as long as she could. She asked me to convey to you the testimony in opposition to Bill No. 2573. Other Department Heads and agencies have spoken before you regarding the difficulty in prosecuting and enforcing this Bill. For her main reason as being against this Bill, it is a lack of enforcement. So, she urges you to oppose Bill No. 2573.

Committee Chair Hooser: Thank you very much. Next speaker, please.

Mr. Sato:  
Thomas Oi.

Next speaker is Gary Pierce, followed by

GARY PIERCE: Hi, my name is Gary Pierce, for the record. I believe the intent was good, but the law does not exclude the grilling and smoking which can be a nuisance to a neighbor and just because of one (1) neighbor. If they are vegan and they do not like it, they can call the police and say, "We do not like the smell. This is becoming a nuisance to me." This is more laws chipping away at every right we have and now there are unintentional consequences in the Bill even to small fires.

*(Councilmember Kagawa was noted as present.)*

Mr. Pierce: What if I am making s'mores in the back yard with the Girl Scout Troop? I mean, it just goes on and on and on. I appreciate what you said, Mr. Hooser about the amending of the Bill and my testimony was made prior to that. So, hopefully, that will go forward. My other thing is I might be for this Bill. The way it is written, the dust, dirt, and debris, and poisonous gasses did not have to come from a fire or chimney or smoldering. That means farming practices also. We have a big problem with dust in Waimea. We have a class action suit because of dust in the Waimea Valley. I did not know if this Bill was intended to sort of control that problem as a backdoor. That is why I was sort of for this Bill initially the way I read it, but again, that is my testimony. That is all I have to say right now. Do you have any questions? Thank you.

Committee Chair Hooser: No questions. Thank you. Next speaker, please.

Mr. Sato: Next speaker is Thomas Oi, followed by Keith Robinson.

*(Councilmember Kaneshiro was noted as present.)*

THOMAS OI: Councilmembers, my name is Thomas Oi. I am opposed to this Bill because of cultural, lifestyle, and religious reasons. First of all in the Hawaiian culture, you make *lau lau* and you make *kalua* pig. My neighbor recently made *lau lau* in her backyard using wood. Things like that are going to happen. The thing is this, I live over there for I do not know how many years, maybe almost fifty (50) years and I see our lifestyle eroding yearly through Bills like this. That is why I am here today. I have about fifty (50) signatures that I got just to make sure that people supported what I am trying to do too. I would say about ninety percent (90%) are over sixty (60) years old, permanent resident of Kaua'i, and they feel the same way I do. That is why I am here. For religious reasons too. You have to realize that Buddhism doing to *obon*. They make plaques putting their ancestors name and they burn it. Are we going to be stopping that practice? Are we going to be stopping churches for making fundraisers by making huli-huli chicken? One of the reasons too is I just starting smoking meat. Are you going to stop me from smoking meat in Lihu'e? That is all I have to say, is that think about the past and think about the people of Kaua'i; the lifestyle. The main point is you folks have to think about instated of bringing these kinds of bills up, think about the culture, the religious, the lifestyle of Kaua'i first. Then, I do not think this Bill is supposed to even be in here today if you did that. Thank you.

Committee Chair Hooser: Are there any questions for Mr. Oi? Just a follow-up. I am not sure if you were here when I said that we were going to be amending the Bill to take out any references or any implication at all to those kinds of practices.

Mr. Oi: Mr. Hooser, today's...

Councilmember Hooser: No, were you here when I...that is my questions to you.

Mr. Oi: Today's public hearing is for the Bill that was...

Councilmember Hooser: Right, but my question though is to ask you if you heard what I said. That is my simple question.

Mr. Oi: Yes, I heard what you said, but I would like to know another thing. By him making a statement like that, does it affect Sunshine Law? Okay. Today's public hearing is on the Bill that is in front of us, not necessarily what he is saying because I work for the legislators. If it is not on the paper when that Bill passes, it does not hold water. People can talk and say that they are going to do this, but then if it is not on the paper, it is not worth anything. Thank you.

Committee Chair Hooser: Thank you. If I could just ask people first, it is not you. You are done. Thank you very much, Mr. Oi. I understand the passion, but I would ask you to hold your applause. This is not the forum for it, please. There are different people with different opinions and it is not appropriate protocol. You can acknowledge your friends outside, the ones that you support. That kind of thing. We want to keep it focused. I just wanted to make sure everyone knew what my intent was. We are testifying just like Mr. Oi said, on the Bill that is here, but I want to be clear and on the record what my intent is. Next speaker, please.

Mr. Sato: Next speaker is Keith Robinson representing the Ni'ihau community, Ni'ihau Ranch, and Ni'ihau owners, followed by Ann Leighton.

KEITH ROBINSON: My name is Keith Robinson. I am here to represent the Ni'ihau community, Ni'ihau Ranch, and the owners of Ni'ihau. I do not trust most politicians or their promises. My brother is absent on business and after the extremely negative response they got last time, not many Ni'ihau people wanted to speak here today. So, I volunteered to do this job myself, but due to the rude treatment I got from some Councilmembers last time, I will avoid their hostile questions afterward by leaving immediately after speaking. Now, for that statement. Ni'ihau is a rural island inhabited by Native Hawaiians. The use of wood fires for all sorts of purposes cooking, water heating, trash disposal, and et cetera has been a traditional cultural practice ever since ancient times. If this proposed law is passed and if it is enforced against Ni'ihau, it will seriously and adversely affect Ni'ihau's entire Hawaiian community. It will also become a classic case of a larger island forcing its laws and cultural values on a smaller island that does not need or want them. Furthermore, it will greatly strengthen the argument that Ni'ihau and Kaua'i should be separate Counties. The Aha Moku Advisory Council, an organization that informs the Department of Land and Natural

Resources (DLNR) and State Legislature about issues involving Hawaiians has already been unofficially told about this potential attempt to suppress the ancient and traditional practices of an entire Hawaiian island and its community. There has also been some talk about filing a Hawaiian rights lawsuit against the County of Kaua'i. Therefore, for all these reasons, I ask that the entire island of Ni'ihau shall be totally exempted from all provisions of this proposed law if and when it is passed. This finished what I have to say. I thank you for giving me the time to speak and I bid you all good day.

Committee Chair Hooser: Thank you very much, Mr. Robinson. Next speaker, please.

Mr. Sato: Next speaker is Ann Leighton, followed by  
Myron Barino.

ANN LEIGHTON: Good afternoon Council. My name is Ann Leighton, born and raised here on Kaua'i. I guess the Department of Health has demonstrated its complete inability to enforce any air quality standards, at least on Kaua'i. I see this Bill and I do not want to see anything banned. I see this Bill as offering opportunity for people to be good neighbors and it offers opportunity for those who are impacted by people who choose not to be good neighbors. It does not seem to ban anything anymore than the Barking Dog Ordinance seeks to ban dog ownership. We had an issue in our neighborhood with some incessantly barking dogs. We went through the process with the Humane Society. The issue has been resolved. I would hope that this Bill provides that opportunity to everybody to resolve their differences and come to agreement. Again, I have neighbors who *hibachi*, who *imu*, who do everything. I am a vegetarian. Do I like smelling it? Not particularly, but do you know what? They do it. It is not incessant. It is transient. People like to do that. For people who choose to egregiously and intentionally continue in a behavior pattern that is harmful to others, I think that people need recourse to address that. Thank you.

Committee Chair Hooser: Thank you. Thank you very much.

Ms. Leighton: Any questions?

Committee Chair Hooser: Questions members? No questions. Thank you.

Ms. Leighton: Thank you.

Committee Chair Hooser: Thank you very much. Next speaker, please.

Mr. Sato: Next speaker is Myron Barino, followed by  
Jody MacDonald.

Committee Chair Hooser: Good afternoon.

MYRON BARINO: Good afternoon. For the record, my name is Myron Barino. I do not want to sound redundant but I just want to voice my opinion in support of those who oppose this Bill. I want to direct mainly to what you said about prohibiting in the use of residential areas. It is cultural, it has been passed down from generations, and I think a lot of people who do it with good

intentions and unfortunately, we just have people that are irresponsible and not considerate to their neighbors. For example, we *kalua* pig in the back of our yard and we live right next to a school. We consider when we light the *imu*, we monitor the wind, and the same thing when we smoke our meat and when we do *hibachi*. I think banning it altogether whether it is in a residential area or not, I think it is not the right way to go. I think we can control this by holding people accountable in being good neighbors.

Committee Chair Hooser: Thank you very much for your testimony.

Mr. Barino: You are welcome.

Committee Chair Hooser: I will see if there are questions. No questions. Thank you very much, sir, for your testimony. Next speaker, please.

Mr. Sato: Next speaker is Jody MacDonald, followed by  
Taryn Dizon.

JODY MACDONALD: *Aloha.*

Committee Chair Hooser: *Aloha.*

Ms. J. MacDonald: I am Jody MacDonald. The clean air is a fundamental human right. The Environmental Protection Agency (EPA) and Earthjustice, they are also helping to fight for clean air. The Clean Air Act gives us all of the legal rights to breathe clean and healthy air. Property nuisance, person's land which substantially hurt a second landowner's right to peaceful enjoyment of their land, open burning. Backyard burning is banned. One of the reasons it got passed, they realized the smoke from the fires constituents and unnecessary nuisance and health hazards. Wood smoke can affect everyone, but children, older adults, people with heart disease, asthma or other lung diseases are especially vulnerable. Finally, there is no longer any valid justification for continuing this practice and added to the air pollution and health hazard. I feel that it also pertains to wood burning chimneys. There are other ways to heat your home in paradise. Convert it to gas or electric heaters. It is a lot healthier for the environment and a lot better for residential areas. I agree Bill No. 2573 has to be revised. It does not state anything about why we are here, why I am here. Cooking is a necessity. You cook, you put the fire out once you *pau* cook. Chimneys are a luxury. You burn that thing twenty-four (24) hours, seven (7) days a week and I think it is just a luxury in paradise. When I talk to all of my families that lives in the mainland, they trip out like why do you folks need chimneys? I do not understand. Why do you folks need chimneys in Hawai'i? So, that is what I just want to state. There are other people that were not able to be here. I have their letter and I also got some written signatures from also other people, senior citizens from the Kapa'a Neighborhood Center that could not be here, and also agree with what I am fighting for. Obviously, they were dealing with Chicken in a Barrel and obviously a lot of complaints were they were burning that constantly and then it was affecting the senior citizens at neighborhood center. It was nice that Chicken in a Barrel came to some kind of agreement with the senior citizens there and stopped burning supposedly their huli-huli chicken. Red light. Sorry.

Mr. Sato: Three (3) minutes.

Committee Chair Hooser: Okay. Thank you very much.

Ms. J. MacDonald: Sorry.

Committee Chair Hooser: Is there any questions? Just a point of clarification, the proposed amendment would limit it to smoke through chimneys.

Ms. J. MacDonald: To chimneys, yes, that is what I am here for. Just chimneys.

Committee Chair Hooser: That is what the intent is. Thank you very much.

Ms. J. MacDonald: Thank you.

Committee Chair Hooser: Next speaker, please.

Mr. Sato: Next speaker is Taryn Dizon, followed by Tina Sakamoto.

Committee Chair Hooser: Caren.

TARYN DIZON: Aloha Council.

Committee Chair Hooser: Aloha.

Ms. Dizon: I oppose Bill No. 2573. My name is Taryn Dizon and I am a born and raised Kaua'i resident who resides in beautiful Kekaha with my beautiful family and two (2) boys. As a resident and a mother, I humbly come before you to advise you of the unforeseen consequences this Bill will have on our beautiful Garden Island. This Bill has not only divided our County again, but we already have a No Burn Ordinance that already changed our way of life especially if you go to the Pākalā and Kaumakani community. As a proud Kaua'i resident, I ask the Council to consider these unforeseen consequences, but not limited to, and devastation before implementing it and creating devastation on Kaua'i. Upon implementation of this law, it will destroy our cultural and traditional practices as we already have been hearing by removing our way of how we prepare our food. A traditional fire has been our way of life. This here is a drawing that my four (4) year old made in school. The caption was written by his teacher. I cannot provide the original as it is still posted in his class. I will read it to you. It says, "Blackberry" who is my dog or my son's dog "kills pigs. He kills tigers, he kills birds, he finds the pigs, daddy shoots the pig, and we cook it at the camping fireplace, the fireplace." This is posted in my son's four (4) year old classroom. This camping place fire is actually at a State park. So, thank you for looking at into amending the Bill, but I think you said only on residential. So, this fireplace does actually happen at a State park.

Since it was stated that gas stoves can be used to cook and prepare our food, will gas be added to our State welfare necessity needs as how will residents prepare their food without the ability to have a wood burning stove? As a taxpayer, I would not want to see my hardworking money go to fuel when our residents have the bountiful of wood available. I have lived on Kaua'i my entire life and I am well aware of the two (2) different types of living nuisance we have, mold and dust.



Some of us have one (1) and some of us have both. Does this give my neighbor the right to create a dust complaint while I am mowing my yard? Who do I complain to when the volcanic air aggravates my son's asthma? Again, we already have State regulations in place and we already have a Clean Air Branch within the State. I am sorry I was not here this morning. I was at work. So, I do not know what was said this morning. Granted you may want to see more action within and I am a victim of that process when I had to live with an illegal bee squatter that did not take care of it twenty (20) feet away from my property leaving my son bedridden for three (3) days. This is why we have an ombudsman office within the State that does follow-up. This bureaucracy will not only cost taxpayers money, but we will reinventing the wheel that is already spinning. I suggest that instead of creating our own County laws and paying for enforcement, we need to effectively use what we have and advise your constituents of the systems that are already in place. As a resident, I am safe at my home and this Bill is not needed...

Mr. Sato: Three (3) minutes.

Ms. Dizon: ...for our community. *Mahalo*.

Committee Chair Hooser: Thank you very much for your testimony. We will see if there is any questions. No questions. Thank you very much.

Ms. Dizon: Thank you. I can leave this with you folks if you want, but this is what my...

Committee Chair Hooser: Sure. Thank you. Next testifier.

Mr. Sato: Next speaker is Tina Sakamoto, followed  
Patricia Lynos.

Ms. Sakamoto: *Aloha* Council Chair and Councilmembers. My name is Tina Sakamoto. Thank you for the opportunity to provide testimony regarding Bill No. 2573. I have previously testified to the lack of clarity and more importantly, the lack of enforcement of this Bill. The County Administration has stated that neither the County personnel nor the County Departments have the expertise to link air quality to the poor health of individuals. The Prosecuting Attorney gave testimony to the concerns of establishing probable cause for prosecution, the higher burden of proof required, the cost and expertise to prove this case, and experts and consultants also would be required for each case. The Kaua'i Fire Department also provided testimony that the effort for this matter should be focused at a State level. The Kaua'i Police Department testified that the Department is not in support of this Bill. The introducer of this Bill stated that Bill No. 2573 does not and will not ban life as we know it on Kaua'i, and I beg to differ. Smoke, soot, dust, dirt, and any kind of debris from a smokestack, chimney, flue, incinerator, any opening of any building, smoldering fire or open fire are directly related to barbecues, smoke houses, drying foods, cooking in *imu*, wood burning water heaters and stoves, fireplaces to warm homes, many of which are still single wall. The list could go on and on. I encourage everyone to read this Bill. This Bill is too broad and excessively far-reaching with severe impacts, most often to the poorest of the citizens. This Bill will indeed bring forward unintended consequences which would restrict and possibly prohibit the living necessities, religious, and cultural activities. I have been asked to bring before you testimonial signatures in opposition to Bill No. 2573. There are approximately five hundred (500) signatures

from persons of Kaua'i and Niihau. Many of these citizens do not have the luxury or the time to leave their jobs to testify. So, please accept these documents as testimony against Bill No. 2573. I again, urge you to oppose this Bill. Thank you.

Committee Chair Hooser: Thank you very much. Any questions? No questions. Thank you. Next speaker, please.

Mr. Sato: Next speaker is Patricia Lynos, followed by Lori Abbey MacDonnald.

PATRICIA LYNOS: Hi everybody. Thank you for your service. I apologize that my voice is not too good but I will try my best. I am opposed to Bill No. 2573 and I understand what you said in explaining to us, but I have something different that I need to bring up. As a pig farmer, we need to cook the slop every day and there is a public law No. 96-468 that you may want to look at because we sign up on this program with the United States Department of Agriculture (USDA) and there are criminal penalties if we do not cook the slop. It is a ten thousand dollars (\$10,000) fine or a year imprisonment. I am really concerned and worried about that. I know there are some farms that feed grain as the Kaneshiro Farms do, but we do slop. That was one of my concerns. I guess they make us cook it because of risk for swine diseases, there is hoof and mouth, and there are all kinds of diseases. There is one more thing too. Being that I live on agricultural property, we can go to the State of Hawai'i Department of Health and get a burning permit. Now, how does this affect that? I do not understand.

Committee Chair Hooser: Thank you. I apologize, I was talking to the County Attorney.

Ms. Lynos: No problem.

Committee Chair Hooser: Hold the minutes for a second. I was just confirming that the right to farm existing State law says that you cannot declare farming a nuisance. So, this would not apply, is my understanding.

Ms. Lynos: So, burning the slop would be no problem?

Committee Chair Hooser: Not as agricultural operations, yes. There would be no problem.

Ms. Lynos: Oh, okay.

Committee Chair Hooser: We could ask the County Attorney to confirm this at some point too. Yes, after you are finished, he can come up and talk.

Ms. Lynos: Yes, I would really appreciate that. That is pretty much all I had to ask. Yes, there is a swine health protection act for food waste. It shall be heated to two hundred twelve degrees Fahrenheit for thirty (30) minutes. So, that does create smoke and I just wanted to make sure that we would still be able to do what we need to stay in business and live out our livelihood as farmers. Thank you.

Committee Chair Hooser: Thank you very much. Any questions? That is good information for us to have.

Ms. Lynos: Yes.

Committee Chair Hooser: As we move forward. Thank you. We will ask the County Attorney just to briefly –because there might be other agricultural people in the background too.

Ms. Lynos: Yes.

Committee Chair Hooser: It will just take a minute.

Ms. Lynos: Do you have that public law 96-468? If you could look into that. I am sorry. I should have made copies for you all.

Committee Chair Hooser: That is fine.

Ms. Lynos: Okay. Thank you.

Committee Chair Hooser: Thank you very much. Just very briefly...you are done. We will bring the County Attorney up for a second.

Ms. Lynos: Perfect.

Council Chair Rapozo: Mr. Hooser, rather than have this turn into a Committee Meeting, let me just say real quick 4617(A) of the State Code basically says Counties cannot implement an Ordinance that conflicts with the agriculture burning law. That is what it says. So, the burden is on us, not you. It is on us to not pass laws that are in conflict with agricultural burning laws. That is what the State law says. We have a Committee Meeting. This is a public hearing for public testimony and I do not want to get into a situation where we start calling up resource people. That is for the Committee Meeting. Feel free to talk to Mauna Kea on the outside, but that is what the law says, State law. I think that is what Mauna Kea was going to come up and say anyway.

Committee Chair Hooser: Yes, I will defer to the Chair of the Council and he can speak outside, but there is the Right to Farm which says that we cannot declare it a nuisance. Anyway, the County Attorney will answer your questions and we will go to the next speaker.

Ms. Lynos: Perfect. Thank you so much.

Committee Chair Hooser: Thank you very much.

Mr. Sato: Next speaker is Lori Abbey MacDonald, followed by Ben Kuhaulua.

LORI ABBEY MACDONALD: Hi, I am Lori Abbey MacDonald. I wrote everything down this time. First of all, I would like to make it clear, this is not about ethnic backgrounds. Some people of saying “go back to the mainland,” we have lived here for forty (40) years and I am Native American if they are interested. It is not just about us because I know for a fact that other people are bothered by wood burning fireplaces in their neighborhoods due to their health. The EPA states, “Toxic air pollutants are components of wood smoke. Wood smoke can cause coughs, headaches, and eye and throat irritation in healthy people. For those that

are pregnant or diabetic, have heart disease, babies, young children, elderly people, cancer people, immune disorder, respiratory diseases like asthma or Chronic Obstructive Pulmonary Disease (COPD), define particles which will enter your home besides the smoke, are deadly.” They contain nitrogen dioxide, carbon monoxide, formaldehyde, benzene, and methocholride. These poisons can and do cause deaths. These particles are so small, your nose cannot even filter them out. What I would like is not wood burning fireplaces in neighborhoods. Vog is a natural occurrence. There is nothing we can do about that, but a wood burning fireplace is an easily correctable problem by replacing them with gas or electric fireplaces in neighborhoods only. I am only speaking about neighborhoods because the houses are so close together. If you live in acres, it should be the persons choice, but in residential neighborhoods, we have a right to breathe clean air and not to have air purifiers on and fans, doors and windows shut all the time. My husband has been to the Emergency Room (ER) once four (4) times to the doctor since January 1<sup>st</sup>. He had a pulmonary function test and he is seeing a Pulmonologist next month. He is very active at work and he loves to bicycle ride, but he has asthma again which he has not had since a child. I believe that it should be made to say no to wood burning fireplaces in neighborhoods only.

I brought a compact disk (CD) that I gave to the Council and to the Mayor, Jay Furfaro, Dileep Bal, Senator Kouchi, and Representative Tokioka, the petition that was signed back in 2012 of people with no results. This problem just has to stop. We cannot breathe. We could move, yes, but who is to say if we move into another house they are not going to build another fireplace right next to us? We cannot afford to move out on acres or else we would. This is a problem. It is a health problem.

Mr. Sato: Three (3) minutes.

Ms. L. MacDonald: And it is making us sick and I am tired of people on my family getting sick. I cannot speak for others, but I know they are many others.

Committee Chair Hooser: Thank you. That is your three (3) minutes. I will give you other time later, Ms. MacDonald.

Ms. L. MacDonald: Do you folks want a copy of this?

Committee Chair Hooser: Sure. We will get staff to get that from you. Any questions for Ms. MacDonald? No. Thank you.

Mr. Sato: Next speaker is...

Ms. L. MacDonald: This is just about wood burning fireplaces in neighborhoods people.

Committee Chair Hooser: Thank you.

Mr. Sato: The next speaker is Ben Kuhaulua, followed by Neil MacDonald.

BEN KUHAULUA: Aloha everybody. My name is for the record, Ben Kuhaulua.

Committee Chair Hooser:       *Aloha.*

Mr. Kuhaulua:                       I just heard about this a couple days ago. I heard Mr. Hooser about what he just said earlier before we started, but history shows in the past when you folks pass something, it snowballs into something else and something else. I heard Mr. Hooser say that he is here and if somebody comes with a complaint or a concern, that he is here for the people. Out of you seven (7) people there, who is here for me to help me that it does not snowball, that I can stew *kalua* pig, smoke meat, make *lau'lua*, and use wood? I want to know who I have to see so you folks can pass a Bill to protect my rights as a Hawaiian in the way we cook and do things. We cook with firewood and I have been doing that all my life. I heard in this short time sitting here, I am listening that it is from Kekaha to Hā'ena and all in between. I was raised in Kapa'a Town smack in the middle of the town and we *kalua* every weekend before when I was growing up. I still do that in Kapa'a. I heard people talk being mindful for others or doing the right thing. I call the fire station and I let them know. There was a point in time where I moved to Anahola. Now, I am in Anahola and I cook every time I *kalua* and I am cooking my taro to make *poi*, but I have the chance to come back home to Kapa'a. I made an *imu* over there. I called the fire station, "I am going to make an *imu* in Kapa'a. Do I have the right?" The fireman said, "You have all the right to do it." What I am saying is I do not want that right to be taken away from me someday down the line because we passed a bill about smoke and then somebody said, chimney smoke. What about the smoke like everybody is talking about, cooking in the backyard? I am not really concerned about barbeque. I am concerned about *pūlehu* when I cook over the grill. You put the *kala* on top or whatever we are going to do, burn hair or not, the animals, or whatever we are doing. That is my concern. The people who barbeque, let them come up here and speak. These are the kinds of things that worry me. I have eighteen (18) grandchildren and I am going to have more God willing. Every one of them is by my side when I cook. They know what an *imu* is, they know how to set the *imu*, and what wood we use. I hear people's concerns, but the people have to hear our concerns of our rights. This is the first time I got this paper, this is the first time I came here, and I am trying to be calm, but I am here.

Mr. Sato:                               Three (3) minutes.

Mr. Kuhaulua:                       Thank you very much. I hope you folks keep that in mind about our rights and how we live.

Committee Chair Hooser:       Thank you. Thank you very much for the excellent testimony. Thank you. Any questions? Next speaker, please.

Mr. Sato:                               Next speaker is Neil MacDonald, followed by Arden Wong.

NEIL MACDONALD:                   Good afternoon Council. My name is Neil MacDonald.

*(Councilmember Kagawa was noted as not present.)*

Mr. N. MacDonald:               I am here to talk about the fireplaces in residential areas. That is my concern. We have lived with this fireplace. We are right next door to it and I want you to consider whatever the Bill is and the

amendment, the consequences of the smoke coming from the fireplace for days or hours at a time and the health risks.

*(Councilmember Yukimura was noted as not present.)*

Mr. N. MacDonald: I have seen my grandson end up at Kapi'olani Medical Center for Women and Children and almost died due to smoke. Then, my son moves and boom, there is a chimney. I am just concerned that the effects of smoke on the people downwind from whatever is going on, do they consider those people that are downwind and the effects it is having on their life?

*(Councilmember Kagawa was noted as present.)*

Mr. N. MacDonald: Alright, that is all I have to say. Thank you.

Committee Chair Hooser: Thank you, Mr. MacDonald. Any questions? No. Thank you very much. Next speaker please.

Mr. Sato: Next speaker is Arden Wong, followed by Anthony Wong.

ARDEN WONG: Aloha. My name is Arden Wong for the record.

Committee Chair Hooser: Aloha.

Mr. Wong: Thank you for allowing me to speak and share my opinions and thoughts. I am here today because I see on social media all of these bills passing and people getting all nuts. I do not know what I going on. I just wanted to educate myself, see how this process works, and see how my other fellow Kauaians feel about what is going on. I was born and raised on this island. I love and enjoy the outdoors. I do everything outdoors; tailgating at sports events, camping, fishing, beach barbeques, celebrating holidays, and family gatherings. I cannot see any of these activities without cooking on a grill or open fire. Disputes between neighbors, I think, should be handled between neighbors and if they need, we should have government officials help them out and resolve their problems, exhaust every option before it is blown into a whole islandwide issue. It is not fair for people who can enjoy those things to not enjoy it for a handful or a little bit of people who cannot enjoy the outdoors. I like camping. I hunt and fish. I cannot see doing that without having an open fire or cooking out on the grill. I just hope you folks take that kind of thing into consideration.

*(Councilmember Yukimura was noted as present.)*

Mr. Wong: I do feel for the asthmatics and elderly and hopefully you folks can come up with a solution without taking away our history, culture, and customs that we are trying to hang onto and perpetuate for our next generations, not see it erased. Thank you.

Councilmember Yukimura: Can I ask a question.

Committee Chair Hooser: Questions? Wait, we have a question.  
Councilmember.

Councilmember Yukimura: Thank you for your testimony. If the regulation is limited to fireplace, would that work in terms of protecting the cultural practices?

Mr. Wong: That would work for me because I do not have a fireplace. That would work for me. I cannot speak for everybody else, but that would work for me.

Councilmember Yukimura: Thank you.

Mr. Wong: Thank you.

Councilmember Yukimura: Thank you very much.

Committee Chair Hooser: Thank you for your very thoughtful testimony. I hope to see you back on other issues. It is nice to hear. Next speaker.

Mr. Sato: Next speaker is Anthony Wong, followed by Joe Rosa. Next speaker is Joe Rosa, followed by Billy DeCosta.

JOE ROSA: Good afternoon. For the record, Joe Rosa. I am here basically because when this thing first came up in January, I went around the area, people approached me, and said, "What do you think about this so called smoke law?" I said, "Well, it has restrictions to me, but it was something that was another 'ready, aim fire' or 'ready, fire, aim' and I think it would not have been a problem today if it was clarified more so to chimney burning." We would not have all of these testimony going on if it was clarified. That was basically the answers I got. They said, "Let it be restricted to chimney burning." They say talking to my grandparents, they say, "Oh, they said they said they did not have chimneys during their growing up days, but now it is popping up here and there and then it creates problems." It is something that was not a problem and if it is creating a problem, they should stop the problem not stop something that has gone on in back yard barbequing, *hibachis*, and all of that. I told them this things is coming up on February 11<sup>th</sup>, which is today. I am here and I said, "I will make my testimony." Basically, I will say that they should restrict it to backyard barbequing and things being okay, but just restrict the chimney burning to that so called Smoke Ordinance since it was not something. If it gets cold they say it is to warm up the building like it was mentioned. Just take an extra blanket. You have extra blankets in the store. You can purchase a blanket and they use it seasonally. I have done it for my lifetime and I have not frozen to death. I am still around. Those are the things to be realistic about because when it comes to smoke, fumes, and things like that there, I know JoAnn is not going to want to hear it, but I am going to say it. Her bus comes around my house in the corner and I get all of the diesel smoke. It creates a problem with black smoke on the screens, the jealousies, but I have never told her, "Hey, you have to stop your bus." That is a hazard to my health, the carbon monoxide and fumes. I had the Health Department stop the spraying for mosquitoes because it was not killing only mosquitoes. I would eventually kill me...

Mr. Sato: Three (3) minutes.

Mr. Rosa: ...because I had the whole house full with smoke.

Committee Chair Hooser: Thank you, Mr. Rosa. That was your time.

Mr. Rosa: Anyway, that is what I said. I just do not look for myself. I look for everybody else and I think that they should do something as far as the chimney smoke because it goes all night. Thank you.

Committee Chair Hooser: Thank you. Thank you, sir. Next speaker please.

Mr. Sato: Next speaker is Billy DeCosta, followed by John Marquez.

BILLY DECOSTA: Hello fellow Councilmembers, Kauaians, Mauna Kea Trask, Christiane, and everybody else. It hurts my heart here when I hear you folks...

Committee Chair Hooser: If you could introduce yourself for the record.

Mr. DeCosta: Billy DeCosta and I am speaking about Bill No. 2573. It hurts me inside when I hear you folks at the Council level say you need to go see what is working for other Counties or other States across the nation. We are not like any other County or State. You folks and us are unique people and I think we have all of the answers within our heart, our *kupuna*, and the people on Kaua'i. We do not need to be like California or Oregon because we are not. The Department of Education is getting help from Kamehameha Schools right now. They are looking for culture in a classroom. Culture in a classroom is not growing taro or making salt. Culture in a classroom is how kids learn. We need to look at culture here on Kaua'i, how we live, and how we do things. I met a gal Mahana Blake from Kilauea who is studying to get her PhD in Environmental Science and I am the environmental teacher for the State here on the island of Kaua'i. She told me her degree is not in Environmental Law, her degree is not in Environmental Restoration, her degree is in Environmental Culture and I asked her, "What does that mean?" She said, "It means that us environmentalists with the degrees do not have all of the answers. We need to go to our community, we need to go to the *kupuna*, we need to go to the hunters, the fishermen, and ask them what is important in their *'āina*." I am asking you folks, you are talking to all the important people right here. They know what they want. We are not going to satisfy one (1) or two (2) people who are disappointed in how we live on Kaua'i. They moved here because they were disappointed with what they had to deal with in Los Angeles or San Francisco or Seattle or New York. I ask you folks, do not look no place else but in your heart and your mind. From Ross all the way around to Gary, you know what needs to be done. We put our trust in you. Go do it. Billy DeCosta. Thank you.

Committee Chair Hooser: Thank you. Thank you very much, Mr. DeCosta. Any questions? Next speaker.

Mr. Sato: Next speaker is John Marquez, followed by Lorrane Newman.

JOHN MARQUEZ: Aloha Council.

Committee Chair Hooser: Aloha.



Mr. Marquez: I have a thing to say. I barbequed from when I was a young boy until now. So, I oppose this Bill. Besides that, you folks are going to hurt the cattle industry. My answer is, do not even think of going there. Just leave things alone. Ross Kagawa knows it for a fact. Our locals, we help out each other and the people who comes from the mainland, tell them, "Too bad." They do not like what the island is like, go back to where they came from. Simple as that. No ifs or no buts. That is my answer to you folks. Think about it.

Committee Chair Hooser: Could you state your name for the record please?

Mr. Marquez: John Marquez.

Committee Chair Hooser: Okay, thank you.

Mr. Marquez: I am local born on Kaua'i. Think about it. Help the locals. The people that come from the mainland, they do not like it, too bad. Just go where they are coming from. Simple as that.

Committee Chair Hooser: Are you finished?

Mr. Marquez: Yes.

Committee Chair Hooser: Okay. Thank you.

Mr. Marquez: Do you folks have any questions?

Committee Chair Hooser: Questions? Are you going to ask a question?

Councilmember Yukimura: Yes. Thank you, Mr. Marquez. Wait, I have one (1) question. If the regulation only applies to a chimney, is that okay with you?

Mr. Marquez: Yes, the chimney is okay, but I mean the barbeque thing, do not even think about going there.

Councilmember Yukimura: Got it.

Mr. Marquez: Because you folks hurt the cattle industry by doing things like that. Just think about it.

Councilmember Yukimura: I think your message is...

Mr. Marquez: Kaneshiro knows it for a fact.

Councilmember Yukimura: Thank you very...

Mr. Marquez: Ross Kagawa knows it for a fact. So, that is my answer to you.

Councilmember Yukimura: Thank you very much.

Committee Chair Hooser: Next speaker, please.

Mr. Sato:  
by Mike Broyles.

Next speaker is Lorrane Newman, followed

Committee Chair Hooser: Hi.

LORRANE NEWMAN: Aloha. My name is Lorrane Newman. I am a resident of Kilauea. I do want to say that I have heard Gary speak and he has assured us that this Ordinance does not or the amendment will mean it does not pertain to barbeques, *imu*, and all of the things that I feel are what is bringing up a lot for a lot of people. I would like to speak to personally and then go a little bit more broadly. First of all, in the very beginning of December there were three (3) nights that there was excessive burning somewhere in Kilauea. I thought it was in the valley. I do not have asthma, but my eyes were burning, just burning. It was like being in a bon fire. In a bon fire, I could chose to move around to the other side, but I was in my home. It was evening, it was dark out, it was freezing, and so I went to bed early. I just thought it will pass and it did, and then the next night and then the next night. The next day I was in my yard and I saw my neighbor. It occurs to me he smokes meat so I said, "Hey, have you been smoking meat?" He hunts. He said, "No" and he got really angry and he said, "Somebody called the police on me. I was heating up my fire, my kids are cold, and I have a legal right to do that," and he just yelled. I said, "Well, you do but" I said, "Look at my eye." I had bags under my eyes. I had been traveling, but I had a bag under the bag of my eyes. I mean, it was pretty ugly. I said, "You do not believe that I could have this smoke from your house?" He says, "No way." I said, "Well, come to my house. You can check it out." He was very, very angry. I went home. It did not end well. I was not happy with the situation, he was not happy with me, but I thought, you know, if he was smoking meat I would suffer for a day for that. I can get behind that, but what he said about the legal right struck me. I have no legal right and he does. I think that is what this is about, that I was in my home and I could not move away from the smoke. If I had asthma, it would have been really horrible. I think that is what this Bill is speaking to and that is why I support this Bill. I do want to say that if it is possible to add another amendment in there, I do not know. When we speak to chemicals, I just want to say it would be nice if we have something that says, "If a neighbor in a neighborhood is going to spray any kind of chemicals or toxic substances, that they have to give notification of twenty-four (24) hours to the neighbors..."

Mr. Sato: Three (3) minutes.

Ms. Newman: ...next to them. That is all I just want to say. Just give us a right to make a choice. I thank you so very much for accepting my testimony.

Committee Chair Hooser: Thank you. Any questions? No. Thank you very much.

Mr. Sato: Next speaker is Mike Broyles, followed by Arthur Brun.

MIKE BROYLES: Good afternoon.

Committee Chair Hooser: Good afternoon.

Councilmember Yukimura: Good afternoon.

Mr. M. Broyles: My name is Mike Bryoles. I am a West Side life-long resident. Some of you know me. Those that know me know that I am a very blunt and politically incorrect person. So, brace yourselves. I wrote this before I heard anything about an amendment or Mr. Hooser's flowery speech we heard earlier before we started out. Here it goes. Sometime around 1957 my father came here in the Navy and was stationed at Pacific Missile Range Facility (PMRF) Naval Base. He grew up to love Kaua'i and he made it his home. He married a local girl, he made local friends, he ate local food, he worked as a police officer for the Kaua'i Police Department, and he bought a home in a very local neighborhood, Kekaha Gardens. He even eventually talked local Pidgin English which was pretty funny sometimes. This was home for him and he never wanted to go back to Indiana where he was born. My father was one of the *haole* transplants that are largely embraced by the local community. Why? Because he came here to be a part of this community. He loved what was here and he did not want to change it. He embraced the local lifestyle, the culture, the customs, and the people. Kaua'i is and always has been a very small town rural community. We are an island community in a year round warm climate with a very small town lifestyle, the kind of place where we enjoy things like going to the beach, playing in the parks, hunting, hiking, diving, fishing, golfing for the people who cannot hunt or fish, four (4) wheel driving, yes, and backyard barbeques. This is not New York City, this is not the Bay Area, and this is not Marine County. Unfortunately, sometimes the wrong kind of transplant comes ashore, one in the likes of Mr. Hooser. One with the special kind of arrogance. You see, it takes a special kind of arrogance...

Committee Chair Hooser: Could you stop speaking for a second? I am the Chair of the Committee so it is my prerogative. We will hold your time. This is not the time or place to attack me or any Councilmember personally. Previous speakers have gone down the path of saying "Go back to where you came from." My father came to Hawai'i in the Navy also. My children were born here. I do not need, this Council does not need, and the public does not need you and others to raise the race issue and cause further division.

Mr. M. Broyles: It is not about race.

Committee Chair Hooser: No. I am saying...

Mr. M. Broyles: It is about mindset. My father was a white man.

Committee Chair Hooser: I have the floor. You be respectful of this Council and this community or we will call a recess.

Mr. M. Broyles: You cut me off.

Committee Chair Hooser: I cut you off because I am the Chair. If you want to continue speaking, speak in a respectful tone. Do not address me personally any denigrate my character or my intent. You may continue. I will call a recess if we go down this path.

Mr. M. Broyles: Alright, you can call your recess. I also pay taxes which of course provides everybody's paycheck here including you, right? So,

let us keep that in mind. You are the Chair, I am the taxpayer. We have a kind of people that come here and say, "I am here now, do what I say" instead of coming here and embracing the lifestyle like most of the good people that come here. This proposed bill is evidence of Mr. Hooser's mindset, to me. I think Mr. Hooser should have checked with the wider community to get the feel of what we wanted instead of what of a few people wanted. So far, Mr. Hooser brought up the issue of race. My intention is not to talk about race. It is to talk about mindset of people that come from elsewhere regardless of your color. I am half a white man. My father is green eyes, blonde hair from Indiana. People of Kaua'i have no use for this kind of disrespect to the local lifestyle.

Mr. Sato:

Three (3) minutes.

Mr. M. Broyles: We do not need Kaua'i (inaudible) to be a retirement home for the rich. Most of all, we do not need big government trying to control every minute aspect of our lives.

Committee Chair Hooser:  
Next speaker.

Thank you very much for your testimony.

Mr. Sato:  
Kapuapomaika'i Kanahele.

Next speaker is Arthur Brun, followed by

ARTHUR BRUN:

*Aloha* Council.

Committee Chair Hooser:

*Aloha.*

Mr. A. Brun: Arthur Brun, owner of Arthur's Smoke Meat and Nightlight Rentals. Wow. This is --we talk about an amendment. Maybe we should have done this before we even went down this road, about smoke meat because that all was in there. There is more to this Bill than just smoking meat. Do you know who I feel pity for? I feel pity for the MacDonalds and people because you folks are just using them to get this message across. Why is dust part of a smoke bill? Because it is still your avenue to get back at the chemical companies that you are trying to get back at. I mean, everybody can see the smoke in the mirrors here. There is just total roundabout way about the way things are going because you know you cannot. Smoke meat is the way to go. I smoke meat as a business. My neighbor, a local, called the Board of Health on me and I straight out told him I was wrong. I had a fundraiser helping a child that got into an accident and was paralyzed. They called that week, they went from five hundred (500) pounds to six hundred (600) pounds. So, I had to smoke meat one (1) night. I went to the Board of Health and to the neighbors, I am sorry. I took full responsibility. It was my fault. I smoked night time. I had to get it done. I have to get it going. It is up to the person, individually to take responsibility for what you are doing wrong, but to put this whole Bill in is nonsense. It is nonsense and it is just costing us money, costing us time. We have to take off from work to come here. I think you folks should look at doing this --when we get these nonsense kind of bills, do them in the afternoon like 4:00 p.m. or 5:00 p.m. Make the public meeting at that time so people can come, show up, and do not need to take off of work to come to something like this. How much people had to take off from work to come here for nothing, for nothing at all? Thank you, Ross, for standing up and rejecting it the first time. KipuKai, you were not here. Mel and Arryl, you folks wanted the State to do their job, but this should not have even passed the first reading. Sorry. This is just a

culture thing. That is what we do as locals like I said before. I would eat smoke meat or grill with wood any day over propane and you cannot tell me propane is not more dangerous than wood because you can blow up at any time by leaking propane. It is all I have. Thank you folks very much, get rid of this, and amendment, just we should have done a Bill right the first time instead of wasting everybody's time. Yes.

Committee Chair Hooser: Thank you very much for your testimony.  
Are there questions?

Councilmember Yukimura: Yes.

Committee Chair Hooser: Councilmember Yukimura.

Councilmember Yukimura: Arthur, thank you for your testimony and for showing some compassion to the MacDonalds because they actually have lived here most of their lives. So, all of this thing about outsiders does not really apply to them. In fact, the perpetrator of the fireplace is an outsider too. My question is, do you feel if this Bill was limited to fireplaces, would that address their problem without affecting all the other culture and...

Mr. A. Brun: If you are burning keawe, I just do not see anything wrong with burning keawe. If you are burning rubbish in a fireplace, yes, you should be prosecuted and pay fines of whatever. I do not know. I mean, I do not have a fireplace. Kōke'e, I mean, you have to do it up there. It is just the way of life. In a neighborhood, if you are just burning wood, I do not see an issue with it.

Councilmember Yukimura: Okay.

Mr. A. Brun: Maybe this is just because a person burning rubbish or whatever he is burning.

Councilmember Yukimura: Yes. Thank you for your thoughtful answer.

Committee Chair Hooser: Any other questions? If not, thank you,  
Mr. Brun. Next testifier, please.

Mr. Sato: Next speaker is Kapuapomaika'i Kanahele,  
followed by Byron Kanahele.

Committee Chair Hooser: Good afternoon.

KAPUAPOMAIIKA'I KANAHELE: *Aloha mai kakou* and *mahalo* for letting me speak before you. My name is Kapuapomaika'i and I acknowledge you, Mr. Hooser, for saying what you said earlier, but hear me out.

Committee Chair Hooser: Thank you.

Ms. K. Kanahele: Oh, and *kala mai* if I start crying.

Council Chair Rapozo: I am sorry. What was that?

Ms. K. Kanahele: If I start crying.

Council Chair Rapozo: Oh.

Committee Chair Hooser: No, that is fine.

Council Chair Rapozo: Get her some Kleenex.

Ms. K. Kanahele: I understand that the possibility passing of Bill No. 2573 is to ensure a healthier Kaua'i. However, it comes with a great cost to us Hawaiian people and our culture. The Bill prohibits smoke, soot, poisonous gases, chimney flue, or incinerator, from any smoldering or open fires. It is to my knowledge that this would include smoke houses, *imu*, incinerators that families of Kaumakani and Pākalā use for their hot waters. It may not be apparent the impact that this will have on the diverse population of Kaua'i although this will affect not only the Hawaiians, but many different nationalities here. Majority of the people on Kaua'i practice cultural traditions that are similar to using *imu* and smoke houses, also, many other things that could be prohibited if this were to be passed. You are trying to fix a problem I see, but you are making a bigger *pilikia* for us. I say this to you, members of the Council, how much more are you going to take away from us? Taking away our privilege to exercise our cultural traditions like smoke meat, *imu*, and other traditional exercises will leave our future generations clueless about our traditions and practices. I ask you all wholeheartedly to reconsider passing this Bill. *Mahalo*.

Committee Chair Hooser: Thank you. *Mahalo*. Any questions? Thank you so much for your testimony. Next speaker, please.

Mr. Sato: Next speaker is Byron Kanahele, followed by Cassie Kaohelauli'i.

Council Chair Rapozo: Take this time to turn off your cell phones, barking dogs and screaming sirens. I am sure it is a hunter. I heard the siren earlier and now I heard the barking dogs. If everyone would just shut that off for now. We would appreciate it. Thank you.

BYRON KANAHELE: *Aloha mai* Council.

Committee Chair Hooser: *Aloha*.

Mr. Kanahele: My name is Bryon Kilolani Kanahele. I am speaking on behalf of the people from Kaua'i and Ni'ihau and on behalf of my *'ohana*. My thought of Bill No. 2573 is that my *'ohana* encourages you, the Council, to promote the idea to find a healthier environment for the future. There are many families that use the incinerators to heat their hot water. How will you find another way to help out families with those needs? Now, what has come to my attention is that without a permit, families cannot have any open fires or any smoldering of wood. It is not *pono* to be penalized or sent to jail when most of my *'ohana* do this as a daily life. Can you tell me what the purpose of Bill No. 2573 is when it is just another way to take away our way of life? I bring you back to my argument about how families do not have the wealth to find new alternatives for home heating. Most of you know that we use these alternatives on Ni'ihau and then we bring these teachings over to teach our new generations how we live over on our island. These teachings go way back to as far as I can remember. Without our traditions we have nothing. We, the students of Kula Aupuni Ni'ihau A Kahelelani

Aloha (KANAKA) Public Charter School (PCS) stand before you, the Council, today to help persevere the culture that we call our own. To me, preserving our culture is to finally bring a better future for the upcoming generation. Thank you for your time.

Committee Chair Hooser: Thank you so much for your testimony. Any questions? None. Thank you so much. Next speaker, please.

Mr. Sato: Next speaker is Cassie Kaohelauli'i, followed by Brianne Kanahele.

Committee Chair Hooser: Hello.

Councilmember Yukimura: *Aloha.*

CASSIE KAOHELAULI'I: *Aloha.* My name is Cassie Kaohelauli'i.

Committee Chair Hooser: Could you speak up, please?

Ms. Kaohelauli'i: My name is Cassie Kaohelauli'i. By allowing this law to pass, the traditional Hawaiian culture will be lost. For our generation, it is our responsibility to carry on this legacy especially the people from Ni'ihau and on the West Side of Kaua'i. Making these things like *lau lau*, rice pudding, *kulolo*, and *kalua* pig all deal with an *imu*. The *imu* is the most important part of making all of these items that are essential to the Hawaiian culture. We basically live off of things like this, not just an *imu* but also a smoke house. We, the students of Kula Aupuni Ni'ihau A Kahelelani Aloha Public Charter School have come here to convince you, the County of Kaua'i, to withdraw this law. Therefore, by prohibiting those things, it could interrupt the way Hawaiians live forever. Thank you.

Committee Chair Hooser: Thank you so much. Questions? Thank you.

Mr. Sato: Next speaker is Brianne Kanahele, followed by Brittany Iwai.

BRIANNE KANAHELE: *Aloha.*

Committee Chair Hooser: *Aloha.*

Councilmember Yukimura: *Aloha.*

Ms. B. Kanahele: My name is Brianne Kanahele and I am here to discuss Bill No. 2573. It is to my knowledge that the Bill states that smoke is considered as a nuisance. Even though I admit that there are pros and cons toward the smoke, but for us as a small community who try their best to preserve the Hawaiian cultures and traditions, I personally believe that this Bill is robbing from us. The *imu* and smoke house are traditional Hawaiian essentials that we even now still strive to use. We are one of the many Hawaiian schools who believe that this Bill is a minor issue. Like the homes that belong to the Robinson land, I live on one, Keawanui Camp 6. I also use wood burning incinerators. I feel for you, the Council, that you want to create a healthier way of living on the island. I beg of you that with an open heart you can reconsider the Bill not just for me, but for my

*'ohana* and for my school. Will you please consider my request? I thank you for having me take this opportunity to talk to you. *Mahalo*.

Committee Chair Hooser: *Mahalo*. Thank you very much for your testimony.

Mr. Sato: Next speaker is Brittany Iwai, followed by Cory Licayan.

BRITTANY IWAI: *Aloha mai kakou*.

Committee Chair Hooser: *Aloha*.

Ms. Iwai: My name is Brittany Iwai. Coming here today, I hope that what I have to say will not fall on deaf ears. Sorry about how emotional we are. We are very passionate about this Bill. It is our *kuleana* to perpetuate our traditional practices on which our culture stands. Although you stated an amendment will be made, we wrote about this just off of the Bill. I am here today to express my concern regarding the potential passing of the Bill. Not only is it eminent that the Bill will threaten the preservation of the Hawaiian culture, but I also question the effectiveness of this Bill. The AGP, and Agricultural Permit, allows corporations to continue to release smoke, soot, dirt and et cetera into the air. This Bill will not stop major pollutants but will greatly affect the other civilians and their culture and traditions. Many of the people of Kaua'i grew up around on participating in cultural traditions such as smoke meat or making an *imu*. To think of it on a grand scale, these things are miniscule in comparison to the corporations who produce pollution on a much greater level. Vog also pertains to this Bill. Vog is just as dangerous and just as toxic. Being an asthmatic, it affects me just as much as the smoke does, but what are we going to do to stop that? Are we going to try and stop Pele from making vog? Are we going not really and try and do something like that? It is apparent that there are many aspects that needs to be considered with this Bill and therefore I ask you review these many aspects and reconsider the passing of this Bill as it is written. Thank you.

Committee Chair Hooser: Thank you very much for your testimony. Questions? Thank you. Thank you so much.

Mr. Sato: Next speaker is Cory Licayan, followed by Klayton Kubo.

Committee Chair Hooser: Yes, after him.

CORY LICAYAN: *Aloha mai kakou*.

Committee Chair Hooser: *Aloha*.

Councilmember Yukimura: *Aloha*.

Mr. Licayan: My name is Cory Licayan. I would like to thank you folks before I start for an opportunity to come and speak and share my *mana'o*, my thoughts and feelings about this. Just before I start, I just want to say I have to agree with all of the purple shirts because they are my blood, they are family, and I love every single one of them. I feel that this Bill, Bill No. 2573, is an



un-Hawaiian way. I agree with you, Mr. Hooser, that you folks are trying to create a better Kaua'i, but I believe that with this Bill, it will affect us personally because most Hawaiians, they do not trust politics like I do. I am only seventeen (17) anyways. I believe that it is very un-Hawaiian because Hawaiians, we use *imu* and smoke houses to celebrate for parties. These things let out a good amount of smoke, which I believe is the cause for this. However, these practices have been passed down from generation to generation to generation. I have been a part of it. It has been passed down to me and it is part of our culture like before. The government has taken away our land, tried to take away our language, and now our culture some believe. How much is enough they have to take away? Hawaiians nowadays have so little to pass onto the next generation and I believe that if you pass this Bill and make it a law the only thing we are going to be passing down is a story of how we lost our culture. *Mahalo*.

Committee Chair Hooser: Thank you very much for your testimony. Questions? I want to recognize all of the students here for their testimony. It is very thoughtful. We have different opinions, but I really appreciate you all showing up. Thank you very much. Before the next speaker, we are going to take a tape change. It will be caption break. Is that ten (10) minutes?

Councilmember Yukimura: Ten (10) minutes.

Committee Chair Hooser: Ten (10) minutes.

There being no objections, the meeting recessed at 3:30 p.m.

The meeting reconvened at 3:42 p.m., and proceeded as follows:

*(Councilmember Yukimura was noted as not present.)*

Committee Chair Hooser: We are going to call the meeting back to order, the public hearing back to order I should say. If we could have everybody's attention. We have about twenty (20) minutes left on the tape and then we will have to take another break. Forty (40) minutes. Okay. Forty (40) minutes, good. Next speaker, please.

Mr. Sato: Next speaker is Klayton Kubo, followed by Jan TenBruggencate.

KLAYTON KUBO: Klayton Kubo, Waimea Kaua'i. As the Bill is written, I am kind of in opposition to it. Until it is in writing, then maybe we might have something to really talk about. Sometimes jumping a gun, maybe it is not too good. Every time it seems like it is a good idea, it is a good thing, but it ends up to be not a good thing in the long run wasting people's time and wasting energy. It is like, wait a minute. Like I told the Clean Air Branch on O'ahu, I called them up when I heard this Bill. I asked them what I felt was legitimate questions. They said that they do not regulate chimneys. I went, wait a minute. What is the real meaning of the Clean Air Branch then which Logan was right there but he is gone now? I told him if he could hand out, but he had to go to another meeting. That is what the definition should be define as. What is the meaning, the real meaning, of Clean Air Branch, meaning clean air? That is all I have to say. Until I see this in writing. Anybody has some questions? No more? Right on.

Councilmember Kagawa: Klayton, I just wanted to shed some light that to answer your question, next week we will have the Head of the Clean Air Branch in O'ahu, I think, that will be here at the Committee Meeting. So, I will ask that question for you.

Mr. Kubo: Next week...when is it?

Councilmember Kagawa: Next week Wednesday's Committee Meeting.

Mr. Kubo: Wednesday. Okay, yes.

Councilmember Kagawa: I guess his boss and Adam will be both here.

Mr. Kubo: Right on.

Councilmember Kagawa: Thank you.

Mr. Kubo: State issue again. It seems like it is going down again. State issue, but kind of touchy subject. *Mahalo*.

Committee Chair Hooser: Thank you very much. Thank you.

*(Councilmember Yukimura was noted as present.)*

Committee Chair Hooser: We will be having the amendments on the floor at that meeting also. Next speaker, please.

Mr. Sato: Next speaker is Jan TenBruggencate, followed by Alice Parker.

JAN TENBRUGGENCATE: Thank you, Councilmembers. My name is Jan TenBruggencate. It occurs to me that this is a very small Bill with very large consequences even if you exempt cooking fires. I just went through some of my own personal activities that would fall under this Bill and I could be prosecuted for. The first one is filling up your car or your lawnmower with gas. Benzene is released. It is a poisonous gas. It is covered under this. I am a wood worker. When I use epoxy to glue two (2) parts of a canoe together, gasses are released. That falls under this. If I sweep out my workshop and dust happens to get into the yard and into the air, that falls under this. There are numerous consequences. I think it lends itself to selective enforcement. If you happen to be somebody who is on the wrong side of somebody who has the ability to make a complaint or to enforce the law, you get targeted. I am not sure it is appropriate to have this kind of really broad legislation in place that has the potential to cause those kinds of problems. Thank you.

Committee Chair Hooser: Any questions? Thank you. Next speaker.

Mr. Sato: Next speaker is Alice Parker, followed by Dustin MacDonald.

ALICE PARKER: Alice Parker for the record. I think Mr. Hooser's article in the Garden Island was very excellent because it explained what he meant by this broad sweep of the Bill. I know when I moved here...well, I have been here eighteen (18) years, but about fifteen (15) years ago my neighbors

and I were having trouble trying to breathe with smoke that came from rubbish fires in the valley. I think it was Regal's area down there. We had to close our windows. We had a heck of a time, especially those of us with asthma, but we seniors, a lot of us have breathing problems. I think we do need to cut down on chimney smoke because that goes for a long time and spreads over a large area. Now, things like barbeques and things like that, I can put up a fan and blow the wind back, blow the smoke back. That does not go on for hours and hours. So, we need to address the big pollutants and I think that you folks will do a good job with that. Thank you.

Committee Chair Hooser: Thank you very much for your testimony. Questions? None. Next speaker, please.

Mr. Sato: Our last registered speaker is Dustin MacDonald.

Ms. Parker: Excuse me. Can I add a quick p.s. (postscript)? Alice again. I had gone to the Department of...

Committee Chair Hooser: Sure, Alice.

Mr. Parker: ...Health and they said that the only island that did not have a smoking ban was Kaua'i. I know there is news briefs that say O'ahu has a no burning policy on a windy day but we do not have anything like that. So, we definitely need something. Thank you. Thank you whoever you were who yielded the floor.

Committee Chair Hooser: Thank you. Yes. Mr. MacDonald, thank you.

DUSTIN MACDONALD: My name is Dustin MacDonald. I am here today to present a solid solution to this wood burning issue that would prevent this from happening to anyone else in the future. This is Aden MacDonald at three (3) years old struggling for his life at Kapi'olani Medical Center for Women and Children because of a neighbor's wood burning smoke. Children cannot survive being exposed to smoke repeatedly as you can see in this picture. I apologize for my intensity, but put your child's life in danger and see what kind of state of mind you would be in. Due to the neglect of a serious health issue from the Department of Health, the Department proved to be worthless in protecting the health of the community and due to the County of Kaua'i's Building Department that permits fireplaces to be constructed in close-knitted neighborhoods demonstrated a direct link to responsibility to this issue mathematically speaking. In recent years, the law was passed to prevent wood burning stoves and yard burning in Hawai'i because we know the health of the community was being affected, proven fact. It is ironic that wood burning chimneys that generate the same exact smoke, the same exact health issue as wood burning stoves and yard burning were exempt. I clearly see a parallel. I propose that wood burning and chimneys be replaced with safe propane fireplaces. Everybody wins. If we can create a tax credit to help people easily transition to propane, it would pay for itself with the prosperity of the health of the community, prevent potential lawsuits, and innocent people do not have to endure physical and mental deterioration due to prolonged exposure to smoke. Let us do the math on this. One side you have wood burning chimneys. On the other side you have propane fireplaces. The good of wood burning fireplaces equals a

heated home, a romantic ambiance of a fire for one (1) home. The bad of a wood burning fireplace equals fatal health conditions for many neighbors downwind. Fatal. Now, let us look at propane fireplaces. The good equals a heated home, a romantic ambiance or a fire, and most importantly, no fatal health issues are created for many neighbors downwind. The bad equals only the cost of propane which is almost even with the cost and time of obtaining firewood. As you can clearly see the good of propane fireplaces enormously outweighs the good of wood burning fireplaces. The bad of wood burning fatally outweighs the bad of propane fireplaces. We are talking about the ultimate price, life. Does the County of Kaua'i have the right to determine the health conditions of which people live in? Even against factual medical evidence that smoke exposure leads to death, is this right? Does this hold the County of Kaua'i responsible for these dangerous conditions to exist? It really looks like that. Or is it the fault of the person that is innocently trying to raise children in a once fresh air environment. I have searched the law books to the extent of my ability to find the wording that says, "Injuring innocent people is a legal right." I have not found one word. I have found many words that say it is not legally right and I am glad that everybody here is only testifying against *imu* and fireplaces because that is not why I am here.

Mr. Sato: Three (3) minutes.

Committee Chair Hooser: Thank you so much.

Mr. D. MacDonald: Any questions?

Committee Chair Hooser: Thank you and your son for the testimony.

Mr. D. MacDonald: Thanks you for your time.

Committee Chair Hooser: Questions? Thank you. Are there any other registered speakers?

Mr. Sato: We have none.

Committee Chair Hooser: Is there anyone here who would like to speak who has not spoken yet? Raise your hand and come forward. Please come forward. You can introduce yourself for the record.

PETER BRUN: Sure.

Committee Chair Hooser: Thank you for coming.

Mr. P. Brun: Aloha.

Committee Chair Hooser: Aloha.

Mr. P. Brun: My name is Peter Brun for the record. I was just going to come here today just in support of being against the Bill and listening to some testimonies, lithifies so to speak. There are questions in my mind that as the Bill is written, say I barbeque a lot. I love barbequing. If someone moves in next door to me renting a house and all of a sudden they say the smoke affects them, and now I have to stop. That is my question. Would I have to stop I guess, would be the question? Restaurants. If a restaurant's smoke moves onto

residential areas and it affects them, does that restaurant have to shut down? That is another question I have now. Mr. Hooser brought up the thing about an amendment to chimneys. What is a definition of a chimney? My smoker has a chimney on it. Then there is the question between wood burning and gas burning. I just Googled it and there is carbon monoxide from gas chimneys. That is very toxic also. That is just some questions that came up. I do not know if it is worth going through this again. I took a whole bunch of time off today, but that is alright. It is costing the County a lot of money to go through this because the way it was written the first time, and now do we have to go through this again to go through the definition of what a chimney is and the effects of different types of burnings through the chimneys. There are houses on this island that really rely on wood burning of course to make their hot water and to heat their houses. We have single wall houses that are not insulated. Our ceilings are not insulated. So, when it is cold, it is cold. If you live in a cold area on this island, it gets pretty cold. West Side when the cold wind comes down from the north, it is really cold on that side. It does cost a lot. Gas prices is down now, but I mean, it goes over five dollars (\$5) a gallon just for propane tanks. That is really expensive as to going out and cutting wood. I know in the mainland, I lived in the mainland for a while and I did some checks on Google also. They recommend you drying your wood for a certain amount of time before you burn it to make it less smoky. So, that is another thing that could be looked into also. There are so many questions going through my mind about the whole deal. My biggest concern is do we go through this all over again with the chimney thing and then come out with nothing again? That is my biggest concern. That is all I have.

Committee Chair Hooser: Thank you for your testimony. Questions? Just to try to answer some of your questions. These are all really good questions that will be addressed at the next level. That is the purpose of this hearing. Thank you for those questions.

Mr. P. Brun: You are welcome.

Committee Chair Hooser: The experience with the Bill on Maui and I know this is not Maui, has been that it has not affected the restaurants like you talked about. This one is intended only if it hurts somebody's health and it is intentional. If you are burning something and you intentionally know that it is hurting somebody, but the devil is in the details, I think, is what you are saying. We will be working on those and I appreciate your testimony.

Mr. P. Brun: You are welcome.

Committee Chair Hooser: Thank you. Anyone who would like to testify for the first time? Anyone would like to testify a second time? No, first time. Come forward please.

KURTIS BROYLES: Hi.

Committee Chair Hooser: Aloha.

Mr. K. Broyles: Kurtis Broyles for the record. Just listening to all of that testimony, it is obvious that there is a lot of compassion and feelings about differences on this from local people to other people that are opposed to it. I just want to make it clear that I am opposed against the Bill because I do not think

it is necessary for us to have to be that extreme. I realize that it is a reality that there are people that have problems with bronchitis and emphysema or any kind of lung diseases and things like that. It is hard to say whether smoking meat or doing anything else has actually caused someone to go into respiratory problem, but being compassionate to those people, listening the person earlier about his son. I have friends, locals, that actually go up to Kōke'e very year because they have kids that cannot take on the Fourth of July and New Year's, the smoke that they smell. So, I know it is real, but I want to be real too about the Bill. I think what the local people are worried about is that like a lot of people said, they are worried about how many it is going to be enforced. It could go in many directions and it would not be justice to our culture. I do not know what we can do. I mean, you have like they talked about the vog. I mean, you can spray a can of Raid and set somebody's respiratory in affect. I do not agree with the Bill. That is all I have to say. Thank you.

Committee Chair Hooser: Thank you very much. Any questions? I just want to say I appreciate you recognizing the folks that have issues with asthma and whatnot, and it is a difficult issue to deal with. I appreciate your acknowledgment. Thank you.

Mr. K. Broyles: Yes, I know it is a reality. I just do not want to be (inaudible). I understand how local...

Committee Chair Hooser: You have to go there.

Mr. K. Broyles: Sorry. I mean, I understand how locals feel about our culture and things too. I am very strong about that as well.

Committee Chair Hooser: Right.

Mr. K. Broyles: But what is the remedy? I do not know.

Committee Chair Hooser: Right. Thank you. That is the challenge. Thank you. Other folks who have not spoken yet that would like to speak for the first time. Please come forward.

KANANI ORNELLES: *Aloha* everyone.

Committee Chair Hooser: *Aloha*.

Ms. Ornelles: I was sitting there contemplating whether or not I was going to get up and provide some testimony. It is a very, very difficult...

Committee Chair Hooser: Introduce yourself for the record.

Ms. Ornelles: I am sorry. My name is Kanani Ornelles. This is a very difficult Bill/subject to have to address. I am Hawaiian. I have a family that is deeply rooted in Hawaiian culture and traditions. In respect to that, I am absolutely opposed to this Bill. On the other hand, I live in a neighborhood in the very neighborhood that Mrs. MacDonald lives in. I have suffered the effects from an individual who choose to burn his fireplace almost on a daily basis year round. I have a calendar full of documented every single day that he has burned. I am also a critical nurse who serve the people of Kaua'i for some time and I now work on O'ahu and I commute back and forth. I have a son who is five (5) years old

who had been diagnosed a brittle asthmatic and has been to the hospital on multiple occasions. He has been on the verge of being intubated, placed on life support, and sent to Kapi'olani Medical Center for Women and Children. When you are in the medical field or even if you are not, when you know that something is happening with you, the physicians try to help you determine what your triggers are. What triggers respiratory conditions? Well, I know one hundred percent (100%) that one of the triggers for my son is the smoke. When I was pregnant with my now two (2) year old daughter, I started testing positive for carbon monoxide toxicity and I know this is due to the chronic smoke exposure that I experienced. I was told by a specialist on O'ahu to either live in a prescribed oxygen tent within my home or I had to move. I chose to move for the sake of my unborn child and myself. I am looking forward to seeing the amended Bill because as it is, I do not agree if it affects my cultural practices and those of my family. I am very thankful that there is now dialogue occurring on this very sensitive subject, and I pray that there will be some resolution to this. If any uncle wants to come and try and do a *ho'oponopono* with these individuals, we are open to it. We welcome it. We just want the same luxuries that probably many of us here in the room take for granted, and that is being able to have our house cooled by the trade winds, being able to breathe fresh air, not being able to have your playtime cut short...

Mr. Sato: Three (3) minutes.

Ms. Ornelles: ...because you have to go in because your child cannot be exposed to smoke. I thank you for the time and I was just sad that Lori MacDonald seemed to be the sacrificial lamb in this and the *haole*. I wanted to put a local Hawaiian face and there are many more within our neighborhood who suffers from these individuals. Thank you very much. I appreciate it.

Committee Chair Hooser: Thank you. Thank you for stepping forward to testify. Questions?

Councilmember Yukimura: Yes, I do.

Committee Chair Hooser: Councilmember Yukimura.

Councilmember Yukimura: Yes, Kanani, thank you for speaking. You said that you moved, but do you mean that you moved while you were pregnant? You actually had to live outside your house?

Ms. Ornelles: Yes. My parents actually live in a development within Wailua. So, I actually seek refuge pretty much there at their home.

Councilmember Yukimura: It is true that if it is at a beach park or at some public place, you can go home, but when you are at home and you cannot. You have to leave, that is very difficult. You say this is happening year around?

Ms. Ornelles: Yes.

Councilmember Yukimura: The person came the last time, the person who has the fireplace.

Ms. Ornelles: Yes.

Councilmember Yukimura: And I think he said he had an agreement to call you whenever he...

Ms. Ornelles: Approximately a month ago, I saw him in the street and I went up to him and I said, "Please." If I offer to buy them a conversion for a fireplace whether it was electric and hook it up to the solar or purchase a gas fireplace at which time I also offered to do it completely legally. We could have documents drafted where we would be responsible for the gas bill for the rest of the time they own their home. So, there has been many concessions made so that they can enjoy their warmth and we can enjoy breathing fresh air. I personally, have been denied on multiple occasions.

Councilmember Yukimura: Okay. Thank you.

Ms. Ornelles: Can I say one (1) more thing?

Councilmember Yukimura: Yes.

Ms. Ornelles: Other people say, "Well, move. Just move." Well, I would love to move. I would love to sell my home. However, when I spoke with multiple realtors, they told me that I would have to disclose that I live next to an individual that has documented cases of incessant burning. How do I sell my home? How do I get the fair market value of my home? Anyway.

Committee Chair Hooser: Thank you.

Ms. Ornelles: Thank you.

Committee Chair Hooser: Your testimony is very important. Thank you very much. Other questions?

Councilmember Yukimura: Thank you.

Committee Chair Hooser: Thank you.

Ms. Ornelles: Thank you for your time.

Committee Chair Hooser: Anyone else for the first time? Yes, please come forward. How much time do we have? I think we are okay. Good afternoon.

VINCE FLORES: Aloha. I am Vince Flores. Hearing all of the testimonies about fireplaces and how you folks are going to deal with that. She made a pretty much open discussion with the person that was harming her home. I think that is one way to deal with the situation. I am allergic. I have asthma. I do not have anymore, but growing up as a young child I was diagnosed as far as allergic to dust and keawe. So, what are we going to do about that? There are so many plants that are out there that give majority pollen, gives majority of all of the children and adults asthma and health issues with their breathing. What are we going to do about that? This Bill has to be clear and I had a question. How come there has to have so much other bills on one (1) bill? Why can it not be just if we are going to pass this Bill, it is going to be for this instead of this Bill is going to be for



this, this, this, and all the way down the line? We have plenty. The majority might look at the Bill and say, "Do you know what? We have to pass the Bill for this, but there is this one that is going to harm a whole lot of other people around." As far as about listening to arguments about racial and all of that, I am pure Puerto Rican. I accept the way Hawai'i is and how I feel if I do not like it that I should go back where I came from. We can as people and as the Chairs, come with the solution. I think we should bring it out. If this is an issue from Kekaha to Wainiha, how about holding hearings one (1) in Kekaha, one (1) in Hanapēpē, and let all of the people know what is going on around here or whoever is trying to put this Bill forth? Maybe we should put it out on the ballot. Let the people choose.

Mr. Sato: Three (3) minutes.

Mr. Flores: I feel for you folks.

Committee Chair Hooser: Thank you. Thank you very much.

Mr. Flores: *Aloha.*

Committee Chair Hooser: I appreciate your testimony. While the next speaker comes up, the reason to answer the question, we do not enter into dialogue really. We were looking for a model when we did this. We did not want to make it up from scratch. We looked for a model, we found one, and perhaps it was the wrong model, but that is our starting point for the discussion. That was broader than what it needs to be. If you could introduce yourself.

BARBARA BACON: Hi. I am Barbara Bacon. Full *haole*. Transplant. Glad to be here. I have just more questions I think than anything. It is how would this be enforced? I mean, who is going to determine what is harmful to somebody else's health and how are you going to prove what is harming their health? I do not know how anybody ever survived the sugar cane burning here. The other thing I have to say is on the fireplace. I guess I am really the only one that is going to actually say, "I hate to see a ban on fireplaces." I could see a restriction on the amount of use of it because if I had a fireplace, I would hate for someone to tell me I could not use it because I like fireplaces. I do understand with health issues, there is a need to control how often they are used, how long they are used, and the duration. Other than that, that is it for me.

Committee Chair Hooser: Thank you very much. Any questions?

Ms. Bacon: Thank you.

Committee Chair Hooser: Thank you. To be clear in case people are watching, I do not believe any of us are talking about a ban on fireplaces, but possibly a restriction. Anyone else who has not spoken yet that would like to speak for the first time? Anyone who has spoken once that would like to speak again? Go ahead.

Mr. M. Broyles: Councilmembers, Michael Broyles for the second time. I wanted to clarify a couple things. As far as the fireplaces, I can understand some kind of restriction on that than say barbequing or smoking meat or *imu* because we live in such a warm weather climate. It is almost like there is no need for it. I see occasionally here and there fireplaces in the low lands where you

wonder why they have it. I would ask that if you do consider fireplace restrictions, and I am not thinking of me personally because I do not own a fireplace, but I look at the broader picture. You make some kind of exception say for the people in Kōke'e, the cabins up there because that can be kind of a necessity when you are up there. I have been up there and it gets pretty cold. I married a Filipino girl and she keeps me warm, but it gets really cold still yet. The thing is you might look at a height, an elevation restriction. Anybody living below that elevation cannot own a fireplace or something because the weather is warmer down there. I do not know. Furthermore, I did not have a chance to say it. I have a daughter that has childhood asthma, but my daughter is out there helping me smoke meat. Sometimes it affects her. I have compassion for that, but I also have compassion for everybody else who lives this lifestyle. It makes me nervous to see when government wants to control every little aspect of our lives. We do not need the government to come in and tell us not to do this and not to cook our steak. Mr. Hooser talked about amendments to this. I read the original Bill and the original Bill, very clearly the way it is written. Chair Rapozo knows as being a police officer, when it comes down to it, you do what the law says in the book. If the law says this, that is what it is and that is how the police are going to react. The way that it is written, if I am cooking on the grill and my neighbor does not like it, I cannot say, "But Gary Hooser said in the meeting that we can cook on the grill." The Bill says that. The law say that. That is what is going to happen. People are going to use that even if the smoke does not bother them. Maybe they do not like you. Maybe they just go "Hey, how come he can cook? I no can. The law says no can." The other person called the cops on me, I am going to call the cops on him now," and it is going to get used against all of us. Show me the amendments, show me that we can barbeque, we can smoke meat, we can have *imu*, and we can weld with our torches because right now even the welding is a fire. A smoldering fire creating a soot or a smell or smoke. If you are welding, that makes a smell. That is another complaint. Make the proper amendments, you might get more of our support. Thank you.

Committee Chair Hooser: Thank you so much for your testimony. Very helpful. Yes, Alice.

Ms. Parker: Alice Parker for the record. How about vents? A venting system that would get the smoke up and away and specifications for vents. If it is the smoker who is producing excess smoke, perhaps a vent could help get that up and away. Thank you.

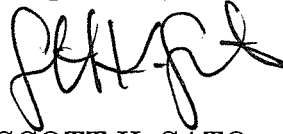
Committee Chair Hooser: Thank you. Thank you very much. Any other people would like to testify? Yes. Come forward.

Ms. Sakamoto: Again, my name is Tina Sakamoto. It is my understanding that fireplaces and smoke houses are legal and permissible structures and activities. It appears that the County government at this time has the difficulty in enforcing the Ordinance because of the subjectivity and the conflicting policy measures. Furthermore, there is a lack of expertise in linking air quality to poor health of individuals. Many of those individuals may have a predisposition to health issues or hereditary issues. I think it is all of our responsibility to create a good law. I think again, a good law should be clear, it should be applied equally, and third, it should be enforced. This Bill now fails in all aspects. It is not clear, I do not think it could be applied equally, and it is dismally a failure in enforcement. Thank you.

Committee Chair Hooser: Thank you. Questions? No questions. Anyone else before we pull the plug on the public hearing? Anyone else who has testified or would like to testify again who has not. If not, I want to thank everybody again for your testimony. I think we had a very educational day. I think it is good to see the different points of view and I am hopeful that at the end of the day, we will come out with something that will satisfy the people on all sides. That would be my goal. Again, I appreciate it. I will conclude the public hearing. That is it.

There being no further testimony, the public hearing adjourned at 4:15 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott K. Sato', written in a cursive style.

SCOTT K. SATO  
Council Services Review Officer

:aa